

1
2 UNITED STATES DISTRICT COURT
3 DISTRICT OF NEVADA

4 SHAWN BROCK,

5 Plaintiff

Case No. 2:21-cv-01556-JAD-BNW

ORDER

6 v.

7 CHAPLIN EVERAGE,

8 Defendant

9
10 **I. DISCUSSION**

11 On August 20, 2021, Plaintiff, an inmate in the custody of the Nevada Department
12 of Corrections ("NDOC"), submitted a civil rights complaint under 42 U.S.C. § 1983 and
13 filed an application to proceed *in forma pauperis*. (ECF Nos. 1-1, 1). Plaintiff's complaint
14 and Plaintiff's application to proceed *in forma pauperis* are both incomplete.

15 **Plaintiff's Complaint**

16 Upon review, the Court notes that Plaintiff did not sign the complaint. (ECF No. 1-
17 1). Under Rule 11 of the Federal Rules of Civil Procedure, a plaintiff who is not
18 represented by counsel is required to sign his complaint. Fed. R. Civ. P. 11(a). Because
19 Plaintiff did not sign the complaint, the Court cannot consider it.

20 As such, the Court grants Plaintiff a **one-time extension** to submit a signed
21 amended complaint to the Court on or before **October 25, 2021**. If Plaintiff chooses to
22 file an amended complaint, he is advised that an amended complaint supersedes
23 (replaces) the original complaint and, thus, the amended complaint must be complete in
24 itself. See *Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546
25 (9th Cir. 1989). Therefore, a mere signature page will not be sufficient. Plaintiff should
26 file the amended complaint on this Court's approved prisoner civil rights form, and it must
27 be entitled "First Amended Complaint."

28 ///

Plaintiff's Application to Proceed in Forma Pauperis

Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil action without prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three of the following documents to the Court:

(1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this Court's approved form (i.e. pages 1 through 3 with the inmate's two signatures on page 3),

(2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court's approved form), and

(3) a copy of the **inmate's prison or jail trust fund account statement for the previous six-month period**.

Plaintiff has not signed his application to proceed in forma pauperis on page 3.

Accordingly, the Court denies Plaintiff's application to proceed *in forma pauperis* (ECF No. 1) without prejudice because the application is incomplete.

The Court will grant Plaintiff a **one-time extension** until on or before **October 25, 2021**, to file either a fully complete application to proceed *in forma pauperis* containing all three of the required documents or pay the full \$402 filing fee. Absent unusual circumstances, the Court will not grant any further extensions of time.

If Plaintiff does not file either a fully complete application to proceed *in forma pauperis* with all three required documents or pay the full \$402 filing fee on or before **October 25, 2021**, this case will be subject to dismissal without prejudice for Plaintiff to file a new case with the Court when Plaintiff is able to either acquire all three of the documents needed to file a fully complete application to proceed *in forma pauperis* or pays the full \$402 filing fee.

A dismissal without prejudice means Plaintiff does not give up the right to refile the case with the Court, under a new case number, when Plaintiff is able to file a signed amended complaint and has all three documents needed to submit with the application

1 to proceed *in forma pauperis*. Plaintiff may also choose not to file an application to
 2 proceed *in forma pauperis* and instead pay the full filing fee of \$402 on or before **October**
 3 **25, 2021** to proceed with this case.

4 **II. CONCLUSION**

5 For the foregoing reasons, IT IS ORDERED that the Clerk of the Court will send to
 6 Plaintiff the approved form for filing a § 1983 complaint, instructions for the same, and a
 7 copy of his original complaint. (ECF No. 1-1). If Plaintiff files an amended complaint, he
 8 should use the Court's approved form and he must write the words "First Amended" above
 9 the words "Civil Rights Complaint" in the caption.

10 IT IS FURTHER ORDERED that if Plaintiff chooses to file a signed amended
 11 complaint, Plaintiff will file the signed amended complaint to this Court on or before
 12 **October 25, 2021**.

13 IT IS FURTHER ORDERED that, if Plaintiff does not file a signed amended
 14 complaint on or before **October 25, 2021**, this case will be subject to dismissal without
 15 prejudice for Plaintiff to refile the case with the Court, under a new case number, when
 16 Plaintiff is able to file a signed amended complaint.

17 IT IS FURTHER ORDERED that Plaintiff's application to proceed *in forma pauperis*
 18 (ECF No. 1) is denied without prejudice to file either a new and fully complete application
 19 to proceed *in forma pauperis* with all three documents or pay the full \$402 filing fee.

20 IT IS FURTHER ORDERED that the Clerk of the Court will send Plaintiff the
 21 approved form application to proceed *in forma pauperis* by an inmate, as well as the
 22 document entitled information and instructions for filing an *in forma pauperis* application.

23 IT IS FURTHER ORDERED that on or before **October 25, 2021**, Plaintiff will either
 24 pay the full \$402 filing fee for a civil action (which includes the \$350 filing fee and the \$52
 25 administrative fee) or file with the Court:

- 26 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this
 27 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two
 28 signatures on page 3),

1 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail
2 official (i.e. page 4 of this Court's approved form), and

3 (3) a copy of the **inmate's prison or jail trust fund account statement for the**
4 **previous six-month period.**

5 IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete
6 application to proceed *in forma pauperis* with all three documents or pay the full \$402
7 filing fee for a civil action on or before **October 25, 2021**, this case will be subject to
8 dismissal without prejudice for Plaintiff to refile the case with the Court, under a new case
9 number, when Plaintiff has all three documents needed to file a complete application to
10 proceed *in forma pauperis* or pays the full \$402 filing fee.

11 DATED: August 25, 2021.

12 

13 _____
14 Brenda Weksler
15 United States Magistrate Judge
16
17
18
19
20
21
22
23
24
25
26
27
28